

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Applicant: §
Rephael Hof et al. § Confirmation No. 5381
Serial No.: 10/573,932 §
Filed: November 2, 2006 § Group Art Unit: 3732
For: Self Adjusting Instrument § Attorney
Examiner: Yogesh P. Patel § Docket: 4285/1
§ (previously 26410-13952)

Commissioner of Patents and Trademarks
Arlington, Virginia

COMMUNICATION

Sir:

Oath/Declaration

The Examiner has rejected the oath/declaration as being in non-compliance with 37 CFR 1.67(a), and has stated that a replacement oath or declaration identifying this application by the application number and filing date is required.

The Applicant respectfully brings the Examiner's attention to the notice published by the USPTO on February 12, 2008, as 1327 OG 112 entitled "*Duty of Disclosure Language Set Forth in Oaths or Declarations Filed in Nonprovisional Patent Applications*". Specifically, the aforementioned notice (under heading "Revised Procedure") states explicitly that:

For pending applications, the Office is hereby sua sponte waiving the express language requirement of 37 CFR 1.63(b)(3), where the oath or declaration was filed prior to June 1, 2008. The express language of 37 CFR 1.63(b)(3) is waived only to the extent necessary such that an oath or declaration containing the "material to examination" or "in accordance with § 1.56(a)" language, or both, will be accepted

as acknowledging the applicant's duty to disclose information "*material to patentability*" as defined in 37 CFR 1.56.

The current application was filed long before the above mentioned implementation date, and includes the language mentioned in the above-cited waiver. The Applicant therefore respectfully submits that the Examiner's objection to the declaration as filed is at odds with explicit office policy, and requests that the objection be withdrawn.

Respectfully submitted,

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Date: February 1, 2010